



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 21, 2004

Robert D. Waddoups
Dean Andersen
Jay Andersen
2778 North 3520 West
Moore, ID 83255

Re: Proposed alternative mitigation plan dated June 3, 2004

Dear Mr. Waddoups, Mr. Anderson, and Mr. Andersen:

The Idaho Department of Water Resources (IDWR) has reviewed your proposed alternative mitigation plan dated June 3, 2004. In your letter you refer to the following losses to your storage water.

1. You contributed 15% of your storage water allocation for charging the river system at the beginning of the irrigation season.
2. The Big Lost River Irrigation District (BLRID) reallocated storage water, reducing your allocation by 3.6%.
3. You have experienced approximately 59% conveyance losses during delivery of your storage water.
4. The total loss to your individual storage accounts has been 18,860 inches.

You propose that these losses to your storage account be considered as mitigation for your ground water use. IDWR has determined that this is not an acceptable mitigation plan for the following reasons.

1. Water contributed for charging the system was used to reduce conveyance losses in order to make water deliverable to your point of redirection from the Big Lost River.
2. IDWR is not aware of the specific details regarding the reallocation of storage water by the BLRID, however, it is likely that the reallocation was performed to adjust for evaporation and/or seepage losses from Mackay Reservoir. IDWR has not received any indication from BLRID that a reallocation was made to provide water for mitigation pursuant to IDAPA 37.03.12.050.
3. The conveyance losses you have experienced during delivery of your storage water are incidental to the delivery of water to your point of redirection from the Big Lost River. The conveyance losses are part of delivery of water for your beneficial use. Your storage

- water is commingled with water in the Big Lost River during delivery, regardless of whether or not you are diverting ground water.
4. The purpose of mitigation is to provide replacement water or other compensation in order to be allowed to continue to divert junior ground water rights out-of-priority.

Because IDWR has determined that your proposed mitigation plan is not acceptable, you will be subject to any assessments made by Water District 34 to cover the costs of mitigation, assuming that Water District 34 submits an acceptable plan to IDWR. You will only be subject to assessment if you are using ground water during the 2004 irrigation season. You have the option of reducing your assessment by reducing or ceasing your diversion of ground water during the remainder of the 2004 irrigation season.

Respectfully,



Tim Luke
Water Distribution Section

cc: Robert Duke, Watermaster, Water District 34
Seth Beal, Advisory Board Chairman, Water District 34
IDWR Eastern Region



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KARL J. DREHER
DIRECTOR

June 21, 2004

Scott Johnson
Churndasher Ranch
5366 Fish Hatchery Road
Mackay, ID 83251

Re: Proposed alternative mitigation plan dated June 3, 2004

Dear Mr. Johnson:

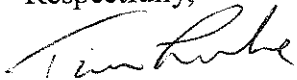
The Idaho Department of Water Resources (IDWR) received your proposed alternative mitigation plan on June 4, 2004. In your letter, you stated that you are not diverting ground water at the maximum diversion rate allowed by your water right. You propose that IDWR consider the reduced pumping rate as mitigation for your ground water use. IDWR also received a second letter dated June 3, 2004, in which you state that you do not believe you should be required to provide mitigation because you have a senior surface water right on Parsons Creek that was not being delivered due to lack of water in Parsons Creek.

Please note that you are required to provide mitigation in order to be allowed to divert junior ground water rights out-of-priority. You are not required to provide mitigation for your use of surface water rights, because they are already regulated according to the priority system. The respective priorities of your surface water rights are not relevant to your obligation to provide mitigation for your ground water use.

IDWR has determined that your proposed mitigation plan is not acceptable. The purpose of mitigation is to provide replacement water or other compensation to senior surface water right holders in order to be allowed to continue to divert junior ground water rights out-of-priority. Any diversion of ground water from your well is out-of-priority with respect to senior surface water rights, regardless of whether or not you are diverting the maximum rate authorized by your water right. Please note that you are only required to mitigate for the amount of ground water that you divert, not the amount of ground water that your water right authorizes. While your reduction in pumping rate does not exempt you from mitigation requirements, it does reduce the amount of mitigation you are required to provide.

Because IDWR has determined that your proposed mitigation plan is not acceptable, you will be subject to any assessments made by Water District 34 to cover the costs of mitigation, assuming that Water District 34 submits an acceptable plan to IDWR. You have the option of reducing your assessment by reducing or ceasing your diversion of ground water during the remainder of the 2004 irrigation season.

Respectfully,

A handwritten signature in black ink, appearing to read "Tim Luke", written in a cursive style.

Tim Luke
Water Distribution Section

cc: Robert Duke, Watermaster, Water District 34
Seth Beal, Advisory Board Chairman, Water District 34
IDWR Eastern Region

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